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SUBJECT: GOM PROPOSES CONSTITUTIONAL CHANGES

REF: (A) ANTANANARIVO 180 (B) ANTANANARIVO 60

ANTANANARI 00000232 001.2 OF 002

¶1. (U) SUMMARY: The Government of Madagascar (GOM) has publicly proposed a number of constitutional changes to be voted on in a referendum April 4, with the stated goal of driving forward the Madagascar Action Plan (MAP), its signature development program (REF A). Changes include eliminating the six-province structure in favor of 22 regions and local government; adding French and English as official languages; protecting intellectual property rights; espousing the fight against corruption; increasing the Prime Minister's authority over cabinet members; withholding parliamentarians' salaries for unjustified absences; and shortening the parliamentary session. It is difficult to assess how effectively these subtle changes will facilitate the GOM's ambitious development plan. Amendments that collectively strengthen the role of the Presidency have most opposition figures suspecting a power-grab by President Ravalomanana instead. The proposal also clears the way for Madagascar's ratification of the Rome Statute.
END SUMMARY.

¶2. (U) Following much speculation, on March 2 the GOM published proposed changes to 72 articles of Madagascar's constitution for the April 4 referendum. As articulated by the drafters, the proposed amendments seek to make the government more efficient and accountable, attract international interest by adopting western-friendly practices, and imbue all Malagasy citizens (including political parties) with the responsibility for Madagascar's development. The proposals boil down to four main themes.

MAKING GOVERNMENT EFFICIENT AND ACCOUNTABLE

¶3. (U) In line with the results-oriented tone set by President Ravalomanana for this administration, the amendments propose to remove a layer of government by abolishing the six province structure. Instead, responsibility for implementing development plans and government administration will lie with the remaining 22 regions and 1,557 commune-level local governments. The President hopes this change will remove a layer of "red tape" to make MAP implementation more efficient. With his new emphasis on leadership at the "fokontany" (neighborhood) level (REF B), this administrative restructuring is also intended to facilitate more direct contact with the grass-roots level of government.

¶4. (U) A number of the amended articles seek to decrease the power

of parliamentarians and make them more accountable -- changes with which even some members of the ruling TIM party take issue. The changes propose withholding salaries for unjustified absences; cutting the parliamentary session down to a 60-day period to expedite legislation and encourage legislators to spend more time at home attending to their constituents; and shortening senators' terms from six to five years to align with deputies' terms.

15. (U) Another change targeting greater efficiency gives the Prime Minister increased authority over cabinet members in an effort to rein in dissenting ministries who have in the past sometimes refused to follow the Prime Minister's directives.

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LOOKING WEST
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16. (U) A number of the changes reflect the "Western-oriented" Ravalomanana's desire for Madagascar to integrate into the international community. As the GOM seeks stakeholders and donors to move the MAP forward, the revised constitution is in part designed to appeal to Western governments and foreign investors by including a Preamble espousing good governance and the fight against corruption, the protection of intellectual property rights, and the adoption of French and English (an inclusion, no doubt, noted by the French) as official languages. New requirements stipulating presidential candidates must henceforth be born of a Malagasy mother and father and must reside in Madagascar for six months preceding their candidacy seek to further loosen French influence over Malagasy policy -- a trend carried over from Ravalomanana's first administration.

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EVERYONE IS RESPONSIBLE
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ANTANANARI 00000232 002.2 OF 002

17. (U) After a recent election period characterized by intense criticism from civil society and politicians (but little action from the latter), the GOM's changes call on all Malagasy citizens to take a more active role in the country's development. Making the Malagasy people ("fokonolona") the base of Madagascar's development, the proposed constitution guarantees individuals, associations, political parties, and all other groups their rights and liberties, but also emphasizes their responsibilities and obligations toward the nation.

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THE PRESIDENT'S CONSTITUTION?
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18. (SBU) While moving the MAP forward is the stated thrust of the proposed changes, Post notes the increased power given to the presidency. Until regions and communes are fully functional with the appropriate legal authority, the President will have the power to issue ordinances related to their activities. The Council of Ministers (chaired by the President) will have the power to appoint regional heads, nominate the Vice-Presidents of the Supreme Court, and appoint Supreme Court judges -- the only people able to file lawsuits against Madagascar's senior officials.

19. (U) Media sources have seized on the omission of a clause guaranteeing the separation of church and state. The President has been criticized repeatedly for mixing government issues with his personal affiliation with the Christian churches, and this move is seen by some as his way to avoid criticism of "unconstitutional" behavior. With churches playing a strong political role in Madagascar, others characterize the change as a pragmatic move to promote the country's development by removing an obstacle to working with one of its major stakeholders.

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ROME STATUTE NOW CONSTITUTIONAL
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¶10. (U) The proposed constitution contains a new article allowing the ratification of the Rome Statute, previously rejected by the High Constitutional Court in 2006 as "unconstitutional."

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COMMENT
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¶11. (SBU) All proposed changes will be considered together as a single up or down vote. With few people expected to vote against the revisions, which are presented as being "for the rapid and sustainable development by region in order to improve the living standard of the Malagasy," the referendum is widely expected to pass. The process, rapid and non-transparent, has caught the attention of Ravalomanana's critics. Most opposition figures suspect a power-grab by the President. Many of the constitutional changes are subtle and only their implementation will determine whether they are benign and effective. Moreover, changes making the government more "efficient" would also seem to diminish checks against the Presidency. The stated intention, facilitating implementation of the MAP, is difficult to assess given that the GOM's ambitious development plan needs funding, expertise, and good luck far more than it needs legislative lubrication in order to succeed.

¶12. (SBU) COMMENT CONTINUED: Anticipating strong EU pressure on the GOM to ratify the Rome Statute immediately following the referendum, Post will need to work quickly with the Department to secure a waiver for Madagascar, which has signed an Article 98 Agreement. END COMMENT.

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